

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	No. 08 CR 202
)	
v.)	
)	Hon. Matthew F. Kennelly (Emergency Judge)
MARCELO ALONZO-ALMARAZ)	Hon. Harry D. Leinenweber (Assigned Judge)

**GOVERNMENT'S EMERGENCY MOTION FOR LEAVE TO
DEPOSE PROSPECTIVE WITNESSES**

Now comes the United States, by its attorney, PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, and moves pursuant to Federal Rule of Criminal Procedure 15 for leave to depose prospective trial witnesses Olegario Carranza-Teofilo, Leonardo Castellanos-Castellanos, and German Perez-Norberto. In support of its motion, the government states as follows:

1. On or about March 13, 2008, defendant Marcelo Alonzo-Almaraz was charged via indictment with one count of knowingly transporting illegal aliens for the purpose of private financial gain in violation of Title 8, United States Code, Sections 1324(a)(1)(A)(ii) and 1324(a)(1)(B)(i).

2. Subsequent to the defendant's arrest on March 7, 2008, the government developed three material witnesses against him: Olegario Carranza-Teofilo, Leonardo Castellanos-Castellanos, and German Perez-Norberto. These three witnesses are undocumented aliens with no legal status in the United States, and thus Immigration and Customs Enforcement had detained them pending deportation. Because deportation is imminent, the government was concerned that the material witnesses would be unavailable for trial following deportation. It would be virtually impossible to secure their presence at trial via subpoena if they were deported. Therefore, on March 17, 2008, the

government also moved this Court to have the three witnesses declared material witnesses within the meaning of 18 U.S.C. § 3144, and to detain them pending completion of Rule 15 depositions.

3. It is the government's position that the circumstances surrounding the presence of Olegario Carranza-Teofilo, Leonardo Castellanos-Castellanos, and German Perez-Norberto in this country constitute exceptional circumstances within the meaning of Rule 15 of the Federal Rules of Criminal Procedure, and that it would be in the interests of justice that the three witnesses' testimony be taken and preserved for use at trial.

4. The three above-named witnesses are scheduled for deportation on Friday, March 21, 2008. As a result, the government seeks to proceed with the depositions of the material witnesses listed above during the week of March 17, 2008. The government can arrange for the videotaped depositions to take place pursuant to Rule 15. The witnesses can then be returned to the Immigration and Customs Enforcement so that they can be expeditiously deported back to their native country.

WHEREFORE, for the foregoing reasons, the United States respectfully requests that this Court order, pursuant to Fed.R.Crim.Pro. 15(a)(2), that the testimony of Olegario Carranza-Teofilo, Leonardo Castellanos-Castellanos, and German Perez-Norberto be taken and preserved for use at trial, due to the exceptional circumstances of this case and since it is in the interests of justice to do so.

Respectfully submitted,

PATRICK J. FITZGERALD
United States Attorney

By: s/Renai S. Rodney
Renai S. Rodney
Assistant United States Attorney
(312) 353-4064

CERTIFICATE OF SERVICE

The undersigned Assistant United States Attorney hereby certifies that the following document:

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was served March 16, 2008, in accordance with FED. R. CIV. P. 5, LR5.5, and the General Order on Electronic Case filing pursuant to the District Court's Electronic Case Filing (ECF) system as to ECF filers.

By: s/ Renai S. Rodney
RENAI S. RODNEY
Assistant United States Attorney
219 S. Dearborn St.- 5th Floor
Chicago, IL 60604
312-353-4064